

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

IN THE HAMILTON SUPERIOR COURT 1
CAUSE NO. 29D01-0002-CP-100

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
BETTERBILT CONSTRUCTION, INC.,)
and HAROLD SAKSON, individually,)
)
Defendants.)

FILED

JUL 17 2000

Sammy Davis
CLERK OF THE
HAMILTON SUPERIOR COURT

DEFAULT JUDGMENT

This cause having come before the Court on the motion of the Plaintiff, State of Indiana, for a Default Judgment against the Defendants, Betterbilt Construction, Inc., and Harold Sakson, and the Court having found that the Defendants have been duly served with a copy of the complaint and summons pursuant to Trial Rule 4 of the Indiana Rules of Procedure, that more than twenty (20) days have passed since the date of service, that the Defendants have failed to answer or otherwise defend the Plaintiff's complaint or appear in this action, that Defendant Harold Sakson is not in the military service, an infant, or incompetent, and that the Plaintiff's motion for default judgment should be granted,

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Motion for Default Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendants, Betterbilt Construction, Inc., and Harold Sakson, individually.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to Indiana Code §24-5-0.5-4(c)(1), the Defendants, Betterbilt Construction, Inc., and Harold Sakson, individually, their agents, representatives, employees, successors and assigns are permanently enjoined from engaging in the following:

1. in the course of entering into home improvement transactions, failing to provide to the consumer a completed home improvement contract which includes at a minimum the following:

- (a) The name of the consumer and the address of the residential property that is the subject of the home improvement;
- (b) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
- (c) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
- (d) A reasonably detailed description of the proposed home improvements;
- (e) If the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
- (f) The approximate starting and completion date of the home improvements;
- (g) A statement of any contingencies that would materially change the approximate completion date;
- (h) The home improvement contract price; and
- (i) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature;

2. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;

3. representing that Defendants are able to start or complete a home improvement within a stated period of time, or when no time period is stated, within a reasonable time, when Defendants know or should reasonably know they cannot;

4. in soliciting and/or contracting with consumers, failing to comply with the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered for the Plaintiff, State of Indiana, against the Defendants as follows:

1. The home improvement contract between the Defendants and Mr. and Mrs. Debomoy Lahiri dated on or about February 23, 1998, is hereby cancelled pursuant to Ind. Code §24-5-0.5-4(d);

2. Consumer restitution is awarded pursuant to Ind. Code §24-5-0.5-4 in the amount of Four Thousand Six Hundred Twenty-Five and 00/100 Dollars (\$4,625.00) on behalf of Mr. & Mrs. Debomoy Lahiri, 5731 Arabian Run, Indianapolis, Indiana 46208;

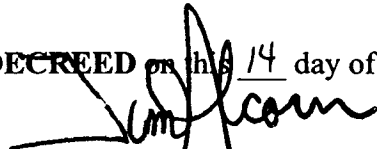
2. Costs are awarded pursuant to Ind. Code §24-5-0.5-4 to the Office of the Attorney General for its reasonable expenses incurred in the investigation and prosecution of this cause in the amount of Seven Hundred Sixty-Two Dollars and Fifty Cents (\$787.50);

3. Civil penalties are awarded pursuant to Ind. Code §24-5-0.5-4 in the amount of Five Hundred and 00/100 Dollars (\$500.00) for the Defendants' knowing violations of the Indiana Deceptive Consumer Sales Act;

4. Civil penalties are awarded pursuant to Ind. Code §24-5-0.5-8 in the amount of Five Hundred and 00/100 Dollars (\$500.00) for the Defendants' intentional violations of the Indiana Deceptive Consumer Sales Act;

For a total monetary judgment in the amount of Six Thousand Three Hundred Eighty-Seven Dollars and Fifty Cents (\$6,387.50).

ALL ORDERED, ADJUDGED AND DECREED on this 14 day of July, 2000.



Judge, Hamilton Superior Court 1

pt

Copies to:

David A. Paetzmann
Office of the Attorney General
402 W. Washington Street, 5th Floor
Indiana Government Center South
Indianapolis, IN 46204

Betterbilt Construction, Inc.
Attn: Harold Sakson
7967 Blue Jay Lane, Apt. A
Indianapolis, IN 46260

Harold Sakson
7967 Blue Jay Lane, Apt. A
Indianapolis, IN 46260

STATE OF INDIANA) IN THE HAMILTON SUPERIOR COURT 1
) SS:
COUNTY OF HAMILTON) CAUSE NO. 29001-0002 CP/100

STATE OF INDIANA,

Plaintiff,

v.

BETTERBILT CONSTRUCTION, INC.,
and HAROLD SAKSON, individually,

Defendants.

Janine M. Clements
CLERK OF SUPERIOR COURTS

COMPLAINT FOR INJUNCTION AND DAMAGES

The State of Indiana, by Attorney General Karen M. Freeman-Wilson and Deputy Attorney General Janine M. Clements, petitions the court pursuant to the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq. for injunctive relief, civil penalties, investigative costs and other relief.

PARTIES

1. Defendant, Betterbilt Construction, Inc., (hereinafter "Betterbilt"), is an Indiana corporation with a corporate address in Marion County at 10525 Barmore Avenue, Indianapolis, Indiana 46280. At all relevant times, Defendant Betterbilt was engaged in or solicited home improvement contracts.

2. Defendant, Harold Sakson (hereinafter "Sakson"), has a residence address in Hamilton County, at 100 Park Lane, Carmel, Indiana 46032. At all relevant times, Defendant Sakson was engaged in or solicited home improvement contracts.

FACTS

3. At least since February 23, 1998, Defendants have acted as home improvement suppliers by engaging in or soliciting home improvement contracts.

4. On or around February 23, 1998, Defendants entered into a home improvement contract with consumers, Mr. & Mrs. Debomoy (Dave) Lahiri, 5731 Arabian Run, Indianapolis, Indiana 46228, for improvements to the Lahiri home for a total contract price of Nine Thousand Two Hundred Fifty and 00/100 Dollars (\$9,250.00). A true and accurate copy of the contract is attached, incorporated by reference, and marked Exhibit "A".

5. Defendants failed to provide a completed home improvement contract to Mr. & Mrs. Lahiri before the contract was signed by Mr. Lahiri.

6. Defendants failed to include the following information in the home improvement contract entered into with Mr. & Mrs. Lahiri:

(a) each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;

(b) specifications for the home improvement or a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;

(d) the approximate completion date of the home improvements; and

(e) legible printed or typed versions of the supplier's and consumer's names placed directly after or below the signature.

7. On or around February 23, 1998, Mr. Lahiri gave Defendant Sakson a check dated February 27, 1998, in the amount of Four Thousand Six Hundred Twenty-Five and 00/100 Dollars (\$4,625.00) made payable to Betterbilt Construction, Inc., as a down payment toward the contract price.

8. On or around February 23, 1998, Defendants provided a written representation on the contract to Mr. & Mrs. Lahiri that the home improvements would be started "4 week [sic] from today."

9. After February 23, 1998, Defendant Sakson made several verbal representations to Mr. & Mrs. Lahiri that work would be started in approximately a week from the date of the representations. More specifically, Defendant Sakson made representations that he would be at the Lahiri home on July 13, 1998, and on July 16, 1998.

10. In truth and in fact, Defendants did not start the work under the Lahiri home improvement contract within four weeks of the date of the contract. Defendant Sakson did not appear at the Lahiri home on July 13, 1998, or on July 16, 1998. Defendants did not start any of the work under the Lahiri home improvement contract.

11. Defendants failed to obtain a permit from the Marion County Department of Metropolitan Development for the Lahiri home improvement work.

COUNT I - VIOLATIONS OF THE HOME IMPROVEMENT CONTRACTS ACT

12. The transaction referred to in paragraph 4 above is a home improvement contract as defined by Ind. Code §24-5-11-4.

13. Defendant Betterbilt and Defendant Sakson are home improvement suppliers as defined by Ind. Code §24-5-11-6.

14. By failing to provide a completed home improvement contract to Mr. & Mrs. Lahiri before the contract was signed by Mr. Lahiri, Defendants violated the Indiana Home Improvement Contracts Act, Ind. Code §24-5-11-10.

15. By failing to include the information referred to in paragraph 6 in the home improvement contract entered into with Mr. & Mrs. Lahiri, Defendants violated the Indiana Home Improvement Contracts Act, Ind. Code §24-5-11-10.

COUNT II - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

16. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 15 above.

17. The transactions referred to in paragraphs 3 and 4 above are "consumer transactions" as defined by Ind. Code §24-5-0.5-2(a)(1).

18. Defendant Betterbilt and Defendant Sakson are "suppliers" as defined by Ind. Code §24-5-0.5-2(a)(3).

19. The violations of the Indiana Home Improvement Contracts Act referred to in paragraphs 14 and 15 constitute deceptive acts.

20. Defendants' written representation to Mr. & Mrs. Lahiri that the home improvement would be started "4 week [sic] from today", as set forth in paragraph 8 above violated Indiana's Deceptive Consumer Sales Act ("the Act") by representing that Defendants could start the home improvement within a stated period of time and by implication could complete the home improvement within a reasonable time, when Defendants knew or reasonably should have known they could not, in violation of Ind. Code §24-5-0.5-3(a)(10).

21. Defendant Sakson's verbal representations to Mr. & Mrs. Lahiri that the home improvements would be started in approximately a week and that he would be at the Lahiri home on July 13, 1998, and on July 16, 1998, as set forth in paragraph 9 above violated Indiana's Deceptive Consumer Sales Act ("the Act") by representing that Defendant Sakson could start the home improvement within a stated period of time and by implication could complete the home improvement within a reasonable time, when Defendant knew or reasonably should have known he could not, in violation of Ind. Code §24-5-0.5-3(a)(10).

22. Defendants' failure to obtain a permit for the Lahiri home improvement work as set forth in paragraph 11 above is a violation of Indiana's Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-10.

23. The misrepresentations and deceptive acts set forth above will continue and will cause irreparable injury unless Defendants are enjoined from engaging in further conduct that violates Ind. Code §24-5-11-1 et seq. and Ind. Code §24-5-0.5-1 et seq.

COUNT III - KNOWING AND INTENTIONAL VIOLATIONS OF
THE DECEPTIVE CONSUMER SALES ACT

24. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 23 above.

25. The misrepresentations and deceptive acts set forth above were committed by Defendants with knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against Defendants for a permanent injunction enjoining Defendants from:

a. in the course of entering into home improvement transactions, failing to provide to the consumer a completed home improvement contract which includes at a minimum the following:

(1) The name of the consumer and the address of the residential property that is the subject of the home improvement;

(2) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;

(3) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;

(4) A reasonably detailed description of the proposed home improvements;

(5) If the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;

(6) The approximate starting and completion date of the home improvements;

(7) A statement of any contingencies that would materially change the approximate completion date;

(8) The home improvement contract price; and

(9) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature;

b. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;

c. representing that Defendants are able to start or complete a home improvement within a stated period of time, or when no time period is stated, within a reasonable time, when Defendants know or should reasonably know they cannot;


d. soliciting to engage in or engaging in a consumer transaction without a permit or other license required by law.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against Defendants for the following relief:

- a. consumer restitution pursuant to Ind. Code §24-5-0.5-4(c)(2), for Mr. & Mrs. Debomoy Lahiri, in the amount of Four Thousand Six Hundred Twenty-Five and 00/100 Dollars (\$4,625.00);
- b. costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- c. on Count III of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendants' knowing violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana;
- d. on Count III of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendants' intentional violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana; and
- e. all other just and proper relief.

Respectfully submitted,

KAREN M. FREEMAN-WILSON
Attorney. No. 8603-45-A
Attorney General

By: 
Janine M. Clements
Deputy Attorney General
Atty. No. 20064-32

Office of Attorney General
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JMC/157

BETTERBILT CONSTRUCTION INC.

10525 Barmore Avenue
Indianapolis, Indiana 46280
1-317-848-1174

PROPOSAL

PROPOSAL NO.

SHEET NO.

DATE 2-23-98

PROPOSAL SUBMITTED TO:

NAME MR + MRS DAVE Lahiri
ADDRESS 5731 Arabian Run
CITY, STATE INDIANAPOLIS 46228
PHONE NO. 297-9960

WORK TO BE PERFORMED AT:

ADDRESS Same
CITY, STATE
DATE OF PLANS
ARCHITECT

We hereby propose to furnish the materials and perform the labor necessary for the completion of

Frame out exterior walls and interior walls as per drawing. Insulate exterior walls. Drywall, sand, finish and paint all wall installed. Trim out baseboard doors and windows to match existing. Install drain, ejector pump and all plumbing for full bath/shower stall (Shower stall 3'x3') Install electric outlets to meet code. Install (1) 48" x 24" 4 louvre light in office. Install 8 can lights in living/ play area with (2) dimmer switch. Install 3 heat runs. Install exhaust fan in bath with (1) bar light above sink - 2 switches. All trims to be painted. Ceiling to be textured. Install (3) 30" Colonial 6 panel doors and (1) 36" Louvered door. Install riser tread on stairs ready for carpet. Install Railing on stairs. Nail down exterior trim boards & caulk where needed. Repair skirting on deck. All bath fixtures, shower, sink and toilet by Contractor. Vanity & mirrored medicine cabinet & bar light by contractor approximate starting time 4 week from today.

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of ~~Nine thousand, two hundred fifty~~ ^{Eight} Dollars (\$ 9,250.00) with payments to be made as follows $\frac{1}{2}$ down (4,625.00) $\frac{1}{4}$ after 2 weeks balance upon completion

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted Betterbilt Const. Inc

Per

Harold Zepher

Note - This proposal may be withdrawn by us if not accepted within / days

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Date 2/23/98

EXHIBIT

A

Signature

D. Lahiri

Signature